

### **REMARKS**

This communication responds to the Office Action of July 19, 2007 in which the Examiner rejected claims 43-45, 47, 49-51, 53-54, 75-79 and 81-82 under 35 U.S.C. 102(e) and claims 46, 48, 55-58, 80 and 83 under 35 U.S.C. 103(a).

#### **Rejections Under 35 U.S.C. § 102**

Claims 43-45, 47, 49-51, 53-54, 75-79 and 81-82 are rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent 6,397,213 ("Cullen").

#### **None of the Independent Claims Are Anticipated By Cullen**

Each of the independent claims of the present application, generally, recite a device, method, or computer readable medium for comparing a new image with stored images and selecting for inclusion in a document a stored text associated with the stored image that is most similar to the new image. As a specific example, claim 43, as amended, recites a device for providing a text related to an image comprising, in part, "a library of stored images... a library of stored texts, wherein each of the stored texts is associated with at least one of the stored images; wherein, upon receipt of a new image, the microprocessor compares the new image to the stored images and selects for inclusion in a medical record the stored text associated with the stored image that is most similar to the new image."

In contrast, Cullen discloses a document query and search technique. Specifically, in an initial step, a document database is created. *Cullen, col. 7, ll. 55-56*. The documents of the document database are segmented into text and image zones, and each zone is annotated with text and image features. *Cullen, col. 7, ll. 55-59*. Subsequently, a user initiates a document search and enters search criteria to form a query document. *Cullen, col. 7, ll. 61-65*. The text and image zones of the query document are then annotated in a manner similar to that of the database documents. *Cullen, col. 7, ll. 66-67*. Additionally, any image in the query document may be normalized and a normalized vector of the image determined. *Cullen, col. 8, ll. 3-8*. Through comparison of the annotations of zones of the query document with the annotations of zones of the stored documents, as well as through image matching, the search technique of Cullen outputs a set of documents having the best search results. *Cullen, col. 8, ll. 16-37*. In sum, the system in Cullen provides for the retrieval of existing documents from a document

database, the retrieved documents containing similar zone annotations and/or images to that of a query document. Nowhere does Cullen disclose selecting the image zone annotation of a stored image for insertion into a document. More specifically, nowhere does Cullen disclose selecting the image zone annotation of a stored image that is most similar to an image of the query document for insertion into a medical record.

Accordingly, Cullen does not disclose “wherein, upon receipt of a new image, the microprocessor compares the new image to the stored images and selects for inclusion in a medical record the stored text associated with the stored image that is most similar to the new image,” as recited in claim 43. As mentioned above, generally, each of the independent claims of the present application recite such a limitation. Thus, additionally, Cullen does not disclose the inventions of independent claims 47, 51, 56, 75, and 81. Reconsideration and withdrawal of the rejections are requested.

*Claims Depending from the Above Independent Claims Are Patentable*

Claims 44-46, 48-50, 52-55, 57-58, 76-80, and 82-83 depend either directly or indirectly from one of the above independent claims. Accordingly, these claims are also patentable for at least for the reasons presented above and, further, in view of their additional recitations. Reconsideration and withdrawal of the rejections are requested.

*Rejections Under 35 U.S.C. § 103*

Claims 46, 48, 55-58, 80 and 83 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cullen in view of U.S. Patent 6,529,617 (“Prokoski”).

*None of the Independent Claims Are Unpatentable Over Cullen in View of Prokoski*

As discussed above, each of the independent claims recites a limitation regarding the comparison of a new image with stored images, and selection for inclusion in a document a stored text associated with the stored image that is most similar to the new image. As also discussed above, Cullen does not disclose the inventions of any of the independent claims.

Prokoski fails to remedy the deficiencies of Cullen. Rather, Prokoski discloses an imaging device that produces “a first signal representative of sensed characteristics of [an] individual and a minutiae generator which receives the first signal and produces a second signal representative of minutiae of the individual,” and subsequently produces “a third signal representative of the characteristics which is stored in a minutiae database for each of the

plurality of known individuals." *See Prokoski, Abstract*. Nowhere does Prokoski teach or suggest selecting stored text for inclusion in a document.

As such, the combination of Cullen and Prokoski fails to teach or suggest the invention of any of the independent claims of the present application. Thus, neither Cullen nor Prokoski, alone or in combination, teach or suggest the inventions of claim 43, 47, 51, 56, 75, or 81.

*Claims Depending from the Above Independent Claims Are Patentable*

Claims 46, 48, 55-58, 80 and 83 depend either directly or indirectly from one of the above independent claims. Accordingly, these claims are also patentable for at least for the reasons presented above and, further, in view of their additional recitations. Reconsideration and withdrawal of the rejections are requested.

*Conclusion*

This response is being submitted on or before January 29, 2008, and an extension of time to respond until that date is hereby requested. The required fee for the extension of time should be charged to Deposit Account No. 04-1420. It is believed that no additional fees are due in connection with this filing. However, the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

The application now stands in allowable form, and reconsideration and allowance are respectfully requested.

Respectfully submitted,

DORSEY & WHITNEY LLP  
Customer Number 25763

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By: David E. Bruhn  
David E. Bruhn, Reg. No. 36,762  
(612) 340-6317